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Paper No. 6

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NEW YORK NY 10111

**COPY MAILED**

**DEC 23 2002**

**OFFICE OF PETITIONS**

In re Application of:	:	
Janice M. Lingwood, Paul J. Evans,	:	
Andrew H. Cantos, Annette Watson	:	
and Philip P. Ashton	:	
Application No. 10/080,846	:	
Filed: February 22, 2002	:	
Title of Invention: EVALUATING AN	:	DECISION REFUSING
ORGANIZATION'S LEVEL OF	:	STATUS
SELF-REPORTING	:	UNDER 37 CFR 1.47(a)

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 21, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). A five (5) month extension of time is requested and is hereby granted.

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 22, 2002, without a fully executed oath or declaration. Accordingly, on March 19, 2002 a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice"), was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration. Applicant was given two-months from the date of the Notice within which to file a fully executed oath or declaration. Extensions of time were available under 37 CFR 1.136(a).

Petitioner responds with the instant petition, extension-of-time request and Declarations of David Phillips and of Selina Reynolds. The Phillips Declaration avers, in relevant part, that the nonsigning inventor was sent a copy of the above-identified application at her place of employment.

Applicable Law:

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the

last known address of the non-signing inventor.

As to item (1), the applicant has failed to establish that the nonsigning inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the *last known address of the nonsigning inventor*, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. Emphasis supplied.

MPEP 409.03(d).

As required by the MPEP, a copy of the application should be sent to the last known address of the nonsigning inventor(s). The last known address should be the last known residence at which the inventor customarily receives mail. See, MPEP 409.03(e) and 605.03.

Petitioner must send a copy of the entire application, including the specification, claims and drawings, along with the oath or declaration to the nonsigning inventor at the last known address of the inventor, as set forth in the first page of the petition, before refusal can be alleged.


Further correspondence with respect to this matter should be addressed as follows:

By mail:           Commissioner for Patents  
                    Box DAC  
                    Washington, D.C. 20231

By FAX:           (703) 308-6916  
                    Attn: Office of Petitions

By hand:           Crystal Plaza Four, Suite 3C23  
                    2201 S. Clark Place  
                    Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

  
Derek L. Woods  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy